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*Attorneys for Plaintiffs,***UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA****MONIQUE PEREZ AND MIKE
BRANG, Individually
and On Behalf of All Others
Similarly Situated,****Plaintiffs,****v.****ALLY FINANCIAL, INC.,****Defendant.****Case No.:****CLASS ACTION COMPLAINT
FOR DAMAGES****JURY TRIAL DEMANDED****CLASS ACTION COMPLAINT**

INTRODUCTION

1. MONIQUE PEREZ and MIKE BRANG (“Plaintiffs”) bring this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of ALLY FINANCIAL, INC. (“Defendant”), in negligently and/or willfully contacting Plaintiffs on Plaintiffs’ cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby invading Plaintiffs’ privacy. Plaintiffs allege as follows upon personal knowledge as to themselves and their own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by their attorneys.
2. The TCPA was designed to prevent calls and text messages like the ones described herein, and to protect the privacy of citizens like Plaintiffs. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
3. In enacting the TCPA, Congress intended to give consumers a choice as to how corporate similar entities may contact them, and made specific findings that “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. In support of this, Congress found that

[b]anning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

Id. at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012

1 WL 3292838, at* 4 (N.D.Ill. Aug. 10, 2012) (citing Congressional findings
2 on TCPA's purpose).

3 4. Congress also specifically found that "the evidence presented to the
4 Congress indicates that automated or prerecorded calls are a nuisance and an
5 invasion of privacy, regardless of the type of call...." Id. at §§ 12-13. See
6 also, *Mims*, 132 S. Ct. at 744.

7 5. As Judge Easterbrook of the Seventh Circuit recently explained in a TCPA
8 case regarding calls to a non-debtor similar to this one:

9 The Telephone Consumer Protection Act ... is well known for
10 its provisions limiting junk-fax transmissions. A less-litigated
11 part of the Act curtails the use of automated dialers and
12 prerecorded messages to cell phones, whose subscribers often
13 are billed by the minute as soon as the call is answered—and
routing a call to voicemail counts as answering the call. An
automated call to a landline phone can be an annoyance; an
automated call to a cell phone adds expense to annoyance.

14 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

15 JURISDICTION AND VENUE

16 6. This Court has federal question jurisdiction because this case arises out of
17 violations of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs.,*
18 *LLC*, 132 S. Ct. 740 (2012).

19 7. Venue is proper in the United States District Court for the Central District of
20 California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because Defendant
21 is subject to personal jurisdiction in the County of Ventura, State of
22 California and County of Orange, State of California as not only does
23 Defendant regularly conduct business throughout the State of California, but
24 Plaintiffs reside within the Counties of Ventura and Orange within the State
25 of California.

26 PARTIES

27 8. Plaintiffs are, and at all times mentioned herein were, citizens and residents
28 of the State of California. Plaintiffs are, and at all times mentioned herein

were each, a “person” as defined by 47 U.S.C. § 153 (39).

9. Plaintiffs are informed and believe, and thereon allege, that Defendant is, and at all times mentioned herein was, a corporation whose corporate headquarters is in Southfield, Michigan. Defendant, is and at all times mentioned herein was, a corporation and is a “person,” as defined by 47 U.S.C. § 153 (39). Plaintiffs allege that at all times relevant herein Defendant conducted business in the State of California and in the Counties of Ventura and Orange, and within this judicial district.

FACTUAL ALLEGATIONS

10. At all times relevant, Plaintiffs were citizens of the State of California. Plaintiffs are, and at all times mentioned herein were each, a “person” as defined by 47 U.S.C. § 153 (39).

11. Defendant is, and at all times mentioned herein was, a Corporation and a “person,” as defined by 47 U.S.C. § 153 (39).

12. At all times relevant Defendant conducted business in the State of California and in the Counties of Ventura and Orange, within this judicial district.

13. Beginning in or around late 2013, Defendant began to utilize Plaintiff Monique Perez’s cellular telephone number, ending in 7972, to place virtually daily incessant calls to Plaintiff Monique Perez pertaining to an alleged debt owed by another person named “Melanie.”

14. Plaintiff Monique Perez did not provide Defendant with her cellular telephone.

15. During a similar time, in late 2013, Defendant began to utilize Plaintiff Mike Brang’s cellular telephone number, ending in 0759, to place virtually daily incessant calls to Plaintiff Mike Brang pertaining to an alleged debt owed by his wife, Marianne.

16. Plaintiff Mike Brang did not sign any loan documents, or provide his cellular telephone number to Defendant.

17. During this time, Defendant placed calls on a daily basis, often placing numerous calls a day.

18. The calls Defendant placed to Plaintiffs' cellular telephones were placed via an "automatic telephone dialing system," ("ATDS") as defined by 47 U.S.C. § 227 (a)(1) as prohibited by 47 U.S.C. § 227 (b)(1)(A).

19. This ATDS has the capacity to store or produce telephone numbers to be dialed, using a random or sequential number generator.

20. The telephone numbers that Defendant, or its agents, called was assigned to cellular telephone services for which Plaintiffs incurred a charge for incoming calls pursuant to 47 U.S.C. § 227 (b)(1).

21. These telephone calls constituted calls that were not for emergency purposes as defined by 47 U.S.C. § 227 (b)(1)(A)(i).

22. Plaintiffs have never provided any personal information, including their cellular telephone number to Defendant for any purpose. As such, neither Defendant nor its agents were provided with prior express consent to place calls via its ATDS to Plaintiffs' cellular telephones, pursuant to 47 U.S.C. § 227 (b)(1)(A).

23. These telephone calls by Defendant, or its agents, violated 47 U.S.C. § 227(b)(1).

CLASS ACTION ALLEGATIONS

24. Plaintiffs bring this action on behalf of themselves and on behalf of and all others similarly situated ("the Class").

25. Plaintiffs represent, and are members of, the Class, consisting of All persons within the United States who received any telephone call/s from Defendant or its agent/s and/or employee/s to said person's cellular telephone made through the use of any automatic telephone dialing system within the four years prior to the filing of the Complaint.

26. Defendant and its employees or agents are excluded from the Class.

1 Plaintiffs do not know the number of members in the Class, but believe the
2 Class members number in the thousands, if not more. Thus, this matter
3 should be certified as a Class action to assist in the expeditious litigation of
4 this matter.

5 27. Plaintiffs and members of the Class were harmed by the acts of Defendant in
6 at least the following ways: Defendant, either directly or through its agents,
7 illegally contacted Plaintiffs and the Class members via their cellular
8 telephones, thereby causing Plaintiffs and the Class members to incur certain
9 cellular telephone charges or reduce cellular telephone time for which
10 Plaintiffs and the Class members previously paid, and invading the privacy
11 of said Plaintiffs and the Class members. Plaintiffs and the Class members
12 were damaged thereby.

13 28. This suit seeks only damages and injunctive relief for recovery of economic
14 injury on behalf of the Class, and it expressly is not intended to request any
15 recovery for personal injury and claims related thereto. Plaintiffs reserve the
16 right to expand the Class definition to seek recovery on behalf of additional
17 persons as warranted as facts are learned in further investigation and
18 discovery.

19 29. The joinder of the Class members is impractical and the disposition of their
20 claims in the Class action will provide substantial benefits both to the parties
21 and to the court. The Class can be identified through Defendant's records or
22 Defendant's agents' records.

23 30. There is a well-defined community of interest in the questions of law and
24 fact involved affecting the parties to be represented. The questions of law
25 and fact to the Class predominate over questions which may affect
26 individual Class members, including the following:

- 27 a. Whether, within the four years prior to the filing of this Complaint,
28 Defendant or its agents placed any calls to the Class (other than a call

made for emergency purposes or made with the prior express consent of the called party) to a Class member using any automatic dialing system to any telephone number assigned to a cellular phone service;

b. Whether Plaintiffs and the Class members were damaged thereby, and the extent of damages for such violation; and

c. Whether Defendant and its agents should be enjoined from engaging in such conduct in the future.

31. As persons that received numerous calls from Defendant via an automated telephone dialing system, Plaintiffs are asserting claims that are typical of the Class. Plaintiffs will fairly and adequately represent and protect the interests of the Class in that Plaintiffs have no interests antagonistic to any member of the Class.

32. Plaintiffs and the members of the Class have all suffered irreparable harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class action, the Class will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendant will likely continue such illegal conduct. Because of the size of the individual Class member's claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein.

33. Plaintiffs have retained counsel experienced in handling class action claims and claims involving violations of the Telephone Consumer Protection Act.

34. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendant to comply with federal and California law. The interest of Class members in individually controlling the prosecution of separate claims against Defendant is small because the maximum statutory damages in an individual action for violation of privacy are minimal. Management of these claims is likely to present significantly fewer difficulties than those presented in many class

1 claims.

2 35. Defendant has acted on grounds generally applicable to the Class, thereby
3 making appropriate final injunctive relief and corresponding declaratory
4 relief with respect to the Class as a whole.

5 **FIRST CAUSE OF ACTION**

6 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER**
7 **PROTECTION ACT**

8 **47 U.S.C. § 227 ET SEQ.**

9 36. Plaintiffs incorporate by reference all of the above paragraphs of this
10 Complaint as though fully stated herein.

11 37. The foregoing acts and omissions of Defendant constitute numerous and
12 multiple negligent violations of the TCPA, including but not limited to each
13 and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

14 38. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq,
15 Plaintiffs and The Class are entitled to an award of \$500.00 in statutory
16 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

17 39. Plaintiffs and the Class are also entitled to and seek injunctive relief
18 prohibiting such conduct in the future.

19 **SECOND CAUSE OF ACTION**

20 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE**
21 **CONSUMER PROTECTION ACT**

22 **47 U.S.C. § 227 ET SEQ.**

23 40. Plaintiffs incorporate by reference all of the above paragraphs of this
24 Complaint as though fully stated herein.

25 41. The foregoing acts and omissions of Defendant constitute numerous and
26 multiple knowing and/or willful violations of the TCPA, including but not
27 limited to each and every one of the above-cited provisions of 47 U.S.C. §
28 227 et seq.

42. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq, Plaintiffs and The Class are entitled to an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(C).

43. Plaintiffs and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request the Court grant Plaintiffs and The Class members the following relief against Defendant:

FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATIONS OF THE TCPA, 47 U.S.C. § 227 ET SEQ.

44. As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiffs seek for themselves and each Class member \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

45. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.

46. Any other relief the Court may deem just and proper.

SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL VIOLATIONS OF THE TCPA, 47 U.S.C. § 227 ET SEQ.

47. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227(b)(1), Plaintiffs seek for themselves and each Class member \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(C).

48. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.

49. Any other relief the Court may deem just and proper.

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Trial By Jury

50. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: March 12, 2014

KAZEROUNI LAW GROUP, APC

BY: /s/ ABBAS KAZEROUNIAN

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